

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Clarksburg Division

DR. CHRISTIAAN ABILDSO,

Plaintiff,

v.

Civil Action No. 1:24-cv-94
Judge Thomas S. Kleeh

WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS,

Defendant.

DEFENDANT’S RENEWED MOTION TO DISMISS

Defendant West Virginia University Board of Governors (“WVUBOG” or “Defendant”), by counsel, moves to dismiss Plaintiff’s Amended Complaint, (ECF No. 9), for lack of subject matter jurisdiction pursuant to Federal Rules of Civil Procedure 12(b)(1). Plaintiff’s Amended Complaint reasserts the following causes of action: (1) retaliation for engaging in rights protected under the First and Fourteenth Amendments pursuant to 42 U.S.C. § 1983 and (2) age discrimination in violation of the Age Discrimination in Employment Act (“ADEA”) and the West Virginia Human Rights Act (“WVHRA”).¹ (*Id.* at p. 8-11.) Plaintiff’s Amended Complaint should be dismissed as the WVUBOG is afforded sovereign immunity for the claims asserted, and Plaintiff lacks standing to seek prospective injunctive relief. The WVUBOG references and fully incorporates its supporting memorandum of law into this Renewed Motion and respectfully requests that the Court grant this Renewed Motion and dismiss Plaintiff’s Complaint in its entirety with prejudice.

¹ Counts I and III appear to be duplicative. Specifically, Plaintiff asserts his First and Fourteenth Amendment retaliation claim in both counts. Plaintiff’s original Complaint included a claim of retaliation under the ADEA in Count III, which was not reasserted in the Amended Complaint.

Respectfully submitted,

**WEST VIRGINIA UNIVERSITY BOARD OF
GOVERNORS**

By Counsel,

/s/ Wendy G. Adkins

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CERTIFICATE OF SERVICE

I, Wendy G. Adkins, counsel for Defendant, hereby certifies that the foregoing ***“Defendant’s Renewed Motion to Dismiss”*** was electronically filed with the Clerk of the Court using the CM/ECF system, on this 22nd day of January, 2025, which will send electronic service to the following counsel of record:

Sean A. Casey
Sean A. Casey, Attorney at Law
The Pickering Building
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/s/ Wendy G. Adkins

Wendy G. Adkins, Esq. (WVSB # 9412)